

NICHOLAS HEDGES.

[To accompany bill H. R. No. 29.]

FEBRUARY 29, 1840.

Mr. RUSSELL, from the Committee of Claims, made the following

REPORT:

*The Committee of Claims, to whom was referred the petition of Nicholas Hedges, report :*

This claim was presented to Congress, and in the House of Representatives referred to the Committee of Claims, and a favorable report made thereon, at the 1st session of the 24th Congress. It was again presented, and a favorable report made thereon, by the Committee of Claims of the House of Representatives, at the 2d session of the 25th Congress, in which this committee concur, and adopt the same as a part of this report ; and herewith report a bill for the petitioner's relief.

APRIL 15, 1836.

*The Committee of Claims, to whom was referred the petition of Nicholas Hedges, report :*

Mr. Hedges is the crier of the United States circuit court of the District of Columbia. He sets forth, that for his services during the November term of said court for 1833, amounting to seventy-four dollars, he signed a receipt in full, to H. Ashton, the marshal, and took from said marshal, at the time, the following certificate or memorandum, viz :

" I certify that Nicholas Hedges has rendered his account to me for thirty-seven days' attendance as crier of the circuit court of the District of Columbia for the county of Washington, at the last November term, for which he will be entitled to receive seventy-four dollars when the account shall be settled, he having given me his receipt therefor.

HENRY ASHTON, *Marshal.*

January 21, 1834."

The petitioner makes his affidavit that he has not received any part of the abovementioned sum, nor any security therefor. Edward Dyer, late deputy marshal, testifies to the genuineness of the above recited certificate as being the handwriting of Mr. Ashton ; and also states that Mr. Ashton was in the habit of paying his officers by taking their receipts and giving

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his due-bill for the amount ; and when he settled with the Government, and drew money, he took up the due-bills, by paying the money for the same.

The Register of the Treasury certifies that the late marshal received credit for the said seventy-four dollars, on the settlement of his accounts at the Treasury ; and the petitioner states that, soon after the settlement of his said account, Mr. Ashton died insolvent.

The fourth section of the act of the 8th of May, 1792, vol. 2, page 301, provides, among other things, that "the legal fees of the clerk, attorney, and marshal, in criminal prosecutions, shall be included in the account of the marshal ; and the same having been examined and certified by the court, or one of the judges of it, in which the service shall have been rendered, shall be passed in the usual manner at, and the amount thereof paid out of, the Treasury of the United States *to the marshal, and by him shall be paid over to the person entitled to the same* ; and the marshal shall be allowed  $2\frac{1}{2}$  per cent. on the amount by him so paid over, to be charged in his future account."

The crier of a court is not named in this act as one of the officers whose accounts are to "be included in the account of the marshal ;" but the committee suppose that officer to be within the spirit of the act, and to have been treated accordingly at the department.

This provision of the law, in the opinion of the committee, makes the marshal the agent of the Government. It not only provides that the accounts thus included in his general account shall be paid to him, and that they shall be paid over by him to the persons entitled to the same, but it prescribes the precise manner in which these accounts are to be submitted to the proper officer for payment, and thereby precludes these subordinate officers from adopting any other method to obtain payment for their services. With this view of the subject, the committee think the United States bound to pay the sum claimed by the petitioner, and introduce a bill.